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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No.: FAA-2014-1073; Notice No. 16-03]

RIN 2120-AJ89

Slot Management and Transparency for LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT)

ACTION: Notice of proposed rulemaking; withdrawal

SUMMARY: The DOT is withdrawing a previously published Notice of Proposed Rulemaking (NPRM) that would have replaced the Orders limiting scheduled operations at John F. Kennedy International Airport (JFK), Newark Liberty International Airport (EWR), and LaGuardia Airport (LGA) with longer-term limits on scheduled and unscheduled operations at JFK, EWR, and LGA, and requested comment on options to establish a secondary market for the purchase, sale, lease, or trade of slots at these airports, as well as procedures that would codify the review of slot transactions arising from the secondary market for public interest and anti-competitive effects.

DATES: As of [INSERT DATE OF PUBLICATION], the NPRM published on January 8, 2015 (80 FR 1274) is withdrawn.

SUPPLEMENTARY INFORMATION:

In 2006, the FAA issued an Order imposing temporary limits on operations at LGA (71 FR 77854), and in 2008, issued Orders imposing temporary limits on operations at JFK (73 FR 3510) and EWR (73 FR 29550). These Orders have been extended and are in effect until October 29, 2016. On April 6, 2016, the FAA announced that the current Order at EWR will expire on October 29, 2016, and that EWR will be a Level 2, schedule-facilitated airport under the Worldwide Slot Guidelines effective for the Winter 2016 scheduling season (81 FR 19861). By this same announcement, the FAA indicated that slot-controlled restrictions at JFK and LGA remain necessary and that the FAA will extend these Orders, by separate Federal Register notices, until October 27, 2018.

On January 8, 2015, the FAA and DOT published an NPRM (80 FR 1274) that would replace the FAA's Orders limiting scheduled operations at JFK, EWR, and LGA with a long-term comprehensive approach to slot management at these airports. The NPRM proposed the continuation of the limits on scheduled and unscheduled operations in place at each of these airports under the Orders, and would have required use of an allocated slot 80% of the time for the same flight or series of flights. The NPRM also requested public comment about five alternatives for a secondary market for the purchase, sale, lease, or trade of slots and proposed procedures to codify the exercise of DOT's existing authority to review slot transactions for anti-competitive and public interest effects arising from those secondary market transactions that would have been permitted by the implementation of a bulletin board for the proposed secondary market.

Since the FAA and DOT first initiated this rulemaking effort there have been significant changes in circumstances affecting New York City area airports, including changes in competitive effects from ongoing industry consolidation, slot utilization and transfer behavior, and actual operational performance at the three airports. Furthermore, the FAA recently announced that slot controls are no longer needed at EWR (81 FR 19861). The NPRM proposed an approach to manage slots and the efficient use of airspace at JFK, EWR, and LGA that would have treated all three New York City area airports similarly. In light of the changes in market conditions and operational performance, and particularly the potential impact of

EWR's change in status, the Department is withdrawing the NPRM to allow for further evaluation of these changes. Withdrawal of this NPRM (80 FR 1274, January 8, 2015) does not preclude the agency from issuing future rulemakings on this issue, nor does it commit the agency to any course of action in the future. The FAA will continue to monitor the operational performance at these airports. Further, if the Department detects unfair or anticompetitive behavior, we will not hesitate to continue to use our existing authority to take corrective action. We will also continue to cooperate with the U.S. Department of Justice on any reviews it undertakes.

Issued under authority provided by 49 U.S.C. 106(f), 40101, 40103, 40105, and 41712 in Washington, D.C. on May 6, 2016.

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